

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,)	
)	
)	File No. 06-10 (2) (ADM/JJG)
Plaintiff,)	
)	
v.)	DEFENDANT LEE D. STAGNI'S
)	OPPOSITION TO
Lee D. Stagni,)	GOVERNMENT'S MOTION FOR
)	EVIDENTIARY HEARING
Defendant.)	

Defendant Lee D. Stagni opposes the Government's motion, filed last Friday afternoon, April 6, 2007, for an evidentiary hearing.

Mr. Stagni is scheduled to be sentenced within the next 48 hours, on Wednesday, April 11. Less than three business days before the sentencing, the Government has requested an evidentiary hearing to supplement the record regarding its tax loss calculation, specifically with respect to *Minnesota state* income tax loss attributed to Mr. Stagni and co-defendant Robert B. Beale, and *1998 and 1999* federal and state income tax loss attributed to Mr. Stagni.

D.Minn LR 83.10(f) requires that a motion for an evidentiary hearing *must* be filed contemporaneously with that party's position on sentencing factors. Any modification of this deadline requires a showing of "good cause." D.Minn. LR 83.10(g). As the sentencing pleadings were filed by both parties on March 9, the Government's motion is four weeks late. The Government offers no explanation as to why it has waited until the eve of sentencing to file its motion, let alone an

explanation rising to the level of good cause. The Government does not even offer the Court the courtesy of a request to file out-of-time.

Moreover, some of the exhibits that the Government plans to use at the hearing were not disclosed until this afternoon. The delay impairs Mr. Stagni's opportunity to contest the supplemental computations. Indeed, had the Government filed a timely motion, the Court would have expected advance notice of Mr. Stagni's intent to present additional evidence. *See* D.Minn. LR 83.10(f)(opposing party to advise Court of rebuttal evidence within seven days of motion). The clear intent of the rule, of course, is to enable both parties to enter the hearing with reasonable notice of the evidence and with time to prepare to confront it.

The Government should be held to some minimal standard of fair play as Mr. Stagni's sentencing approaches. Its motion should be denied as untimely.

Dated: April 9, 2007

HALLELAND LEWIS
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